

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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In re Morgan Stanley Data Security Litigation

20 Civ. 5914 (AT)

**STIPULATION AND SCHEDULING ORDER REGARDING
PLAINTIFFS' SECOND CONSOLIDATED AMENDED COMPLAINT**

Plaintiffs Mark Blythe, Cheryl Gamen, Richard Gamen, Amresh Jaijee, Howard Katz, Richard Mausner, John Nelson, Midori Nelson, Desiree Shapouri, Sylvia Tillman, and Vivian Yates (collectively, "Plaintiffs"), and Defendant Morgan Stanley Smith Barney, LLC ("Morgan Stanley" or "Defendant") hereby stipulate and agree as follows:

WHEREAS, on November 2, 2020, Plaintiffs filed a Consolidated Class Action Complaint (ECF No. 38);

WHEREAS, on January 14, 2021, Defendant filed a Motion to Dismiss the Consolidated Class Action Complaint Pursuant to Rules 12(b)(1) and 12(b)(6) (ECF 47) ("Motion to Dismiss");

WHEREAS, pursuant to the Court's Order of December 12, 2020 (ECF 46), Section III.B.iv of the Court's Individual Practices in Civil Cases, and Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure, Plaintiffs are required to file either a response to Defendant's Motion to Dismiss, or a Second Consolidated Class Action Complaint no later than February 4, 2021;

WHEREAS, Plaintiffs and Defendant have scheduled a mediation before the Honorable Diane M. Welsh (Ret.) of JAMS for March 15, 2021 (*see* ECF 40) (the "Mediation");

WHEREAS, Plaintiffs and Defendant are engaged in party and non-party discovery; and

WHEREAS, Plaintiffs intend to serve a Second Consolidated Class Action Complaint rather than responding to Defendants' Motion to Dismiss.

IT IS HEREBY STIPULATED AND AGREED, subject to the Court's approval, that:

1. Plaintiffs' above-referenced February 4, 2021 deadline is adjourned until March 31, 2021 to allow the parties to continue discovery and proceed with the Mediation; and
2. Plaintiffs and Defendant shall agree on a subsequent schedule for briefing the Motion to Dismiss, subject to the Court's approval.

STIPULATED and AGREED to this 26th day of January, 2021.

Respectfully submitted,

MORGAN & MORGAN

NUSSBAUM LAW GROUP, P.C.

By: /s/ Jean Martin
Jean Martin
201 N. Franklin Street, 7th Floor
Tampa, Florida 33602
(813) 223-5505
jmartin@ForThePeople.com

By: /s/ Linda P. Nussbaum
Linda P. Nussbaum
1211 Avenue of the Americas, 40th Fl.
New York, NY 10036
(917) 438-9189
lnussbaum@nussbaumpc.com

Interim Co-Lead Counsel for Plaintiffs

**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON, LLP**

**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON, LLP**


By: /s/ Susanna M. Buergerl
Susanna M. Buergerl
1285 Avenue of the Americas
New York, NY 10019
(212) 373-3000
sbuergerl@paulweiss.com

By: /s/ Jane Baek O'Brien
Jane Baek O'Brien
2001 K Street, N.W.
Washington, DC 20006
(202) 223-7300
jobrien@paulweiss.com

Attorneys for Defendant Morgan Stanley Smith Barney LLC

SO ORDERED.

Dated: January 27, 2021
New York, New York



ANALISA TORRES
United States District Judge